



**THE COMMONWEALTH OF MASSACHUSETTS**

**Appellate Tax Board**

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**Docket No. F334538**

**NORTHVEST PROPERTIES I, LLC**  
**Appellant.**

**v.**

**BOARD OF ASSESSORS OF THE**  
**CITY OF NORTH ADAMS**

**Appellee.**

**DECISION WITH FINDINGS**

The assessors' Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the documents submitted in support of the Motion, the appellant's Opposition, and the arguments advanced at the July 25, 2019 hearing of the Motion, the Board finds and rules as follows.

This appeal concerns the fiscal year 2017 assessment of real estate tax in the amount of \$8,642.14 on property located at Curran Highway in North Adams ("subject property"). The appellant concedes that it made a late payment of its fourth-quarter bill but argues that the issue should be overlooked given certain alleged actions of the assessors. The average of the prior three years' taxes is \$8,083.25 and the appellant made payments of \$6,493.40 by the May 1, 2017 due date of the fourth-quarter bill.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$5,000; (2) interest is incurred on the tax bill; and (3) the three-year average provision under G.L. c. 59, §§ 64 and 65 is not met. See, e.g. *Massachusetts Inst. Of Tech. v. Assessors of Cambridge*, 422 Mass. 337, 451-52 (1996); *Columbia Pontiac Co. v. Assessors of Boston*, 395 Mass. 1010, 1011 (1985) ("payment of the full amount of the tax due without incurring interest charges is a condition precedent to the board's jurisdiction over an abatement appeal.").

In the present appeal, the tax on the subject property exceeds \$5,000, interest was incurred due to the late payment of the fourth-quarter bill, and the appellant failed to pay at least the amount of the average of the prior three year's taxes by May 1, 2017.

The Board has only that jurisdiction conferred on it by statute. *Stilson v. Assessors of Gloucester*, 385 Mass. 724, 732 (1982). Adherence to the statutory prerequisites is essential "to prosecution of appeal from refusals to abate taxes." *New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth*, 368 Mass. 745, 747 (1975). *Old Colony R. Co. v. Assessors of Quincy*, 305 Mass. 509, 511-12 (1940).

The appellant concedes that its fourth-quarter payment was late, but argues that the assessors waived this argument and that equity requires the Board to address the merits of its claims. Neither the assessors nor the Board can waive jurisdictional requirements. *Id.* Further, the Board must follow the statutory requirements for granting an abatement and cannot consider equitable arguments. See *Marr v. Commissioner of Revenue*, 414 Mass. 489 (1993).

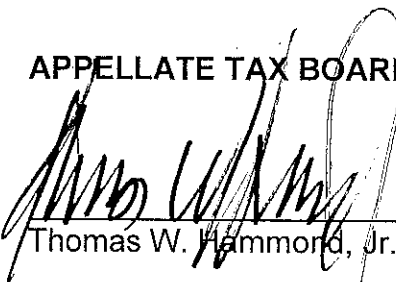
Accordingly, the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

This is a single-member Decision promulgated in accordance with G.L. c. 58A, § 1A and 831 CMR 1.20.


ORDERED ACCORDINGLY

APPELLATE TAX BOARD

By:

  
Thomas W. Hammond, Jr., Chairman

Attest:

  
Clerk of the Board

Date:  
(Seal)

JUL 30 2019

**NOTICE:** Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.